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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,353	02/12/2004	George William King	P03/341	3189

7590 03/21/2005

Paul B. Overhauser  
Overhauser Law Offices, LLC  
479 Sycamore Court  
Greenfield, IN 46140

EXAMINER
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BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/776,353

Applicant(s)

KING, GEORGE WILLIAM

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### ***Claim Objections***

Claims 1-6 are objected to because of the following informalities: In claim 1 line 3, "otherand" should be changed to "others and". In claim 5 line 2, it appears that "the" should be inserted before "boom". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claimed limitation of "a reinforcing ridge from the first position to the second position" is not understood and does not appear to follow the explanation of the reinforcing ridge set forth in the specification (page 10) or drawings (fig 5).

### ***Specification***

The disclosure is objected to because of the following informalities: The specification is replete with typographical errors including a lack of spacing between words and words that include overstruck characters. Examples can be found on page 1 line 1 "**Inventi n**", page 3 line 17, "completely", page 3 line 20 "ot", page 3 line 22, "anexcavator". Additionally, on page 6, lines 13-14 appear to be a repeat of lines 11-12. Additionally, on page 8 lines 10 & 12, it appears that reference number "18" should be changed to "19". It is noted that this is not an exhaustive list, and that the specification should be revised carefully. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,3,6 are rejected under 35 U.S.C. 102(b) as being anticipated by Modig (5,241,764).

Modig discloses an excavator bucket comprising opposing side walls 6, a back surface 11 being movable between a first position substantially defining the capacity of the bucket (fig. 2) and a second position (fig. 3), and with the back surface being connected to an actuating member 19'. Modig further discloses a back structural support surface 3, and a reinforcing ridge 14 (fig. 4). Concerning claim 2, member 19 is also considered a means for biasing.

Claims 1,4,5,6 are rejected under 35 U.S.C. 102(b) as being anticipated by Klager (6,658,769)).

Klager discloses an excavator bucket comprising opposing side walls 32, 34, a back surface 16 being movable between a first position substantially defining the capacity of the bucket (fig. 5a) and a second position (fig. 5d), with the back surface being connected to an actuating member 26. Concerning claim 6, members 46 & 48 are considered a reinforcing ridge.

Art Unit: 3671

Claims 1,2,6 are rejected under 35 U.S.C. 102(b) as being anticipated by Schield (2,402,299).

Schild discloses an excavator bucket comprising opposing side walls 6, a back surface 32 being movable between a first position substantially defining the capacity of the bucket (fig. 2) and a second position, with the back surface being connected to an actuating member 23. Schild further discloses a back structural support surface 31, a means for biasing 54 and a reinforcing ridge 52.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

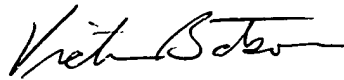
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3671

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 7, 2005



Victor Batson  
Primary Examiner  
Art Unit 3671